IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 22546 of 2004

Between:

1 Khaled Abdul Aziz @ Mohd.Mazeed @ Mohd Khaled S/o.Mohd Azeez
R/o.H.No.9-15-1, Ahmedpur Colony Nizamabad.
2 Meer Athar Ali @ Asif S/o.Meer Waid Ali
R/o.9-15-3, Ahmedpura Colony Near Mahboob Sabam Chilla, Nizamabad.
3 Md.Abudl Shoeb S/o.Md.Abdsul Rasheed
R/o.H.No.9-15-97, near Arfath Mazid Ahmedpura Colony, Nizamabad.

... PETITIONERS

AND

1 The Superintendent of Police Nizamabad District.
2 The Station House Officer, II Town Police Station Nizamabad District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any other appropriate writ or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in opening the rowdy sheet against the petitioners as illegal, arbitrary and violative of Article 14, Article 19 (1) (e) and Article 21 of the Constitution of India and pass.

Counsel for the Petitioners: MR.K.SRINIVASA REDDY

Counsel for the Respondents: GP FOR HOME

The Court made the following order:

ORDER:

Petitioners question the action of the respondents in opening Rowdy Sheet against them. As per the Police Standing Order 742, the following persons may be classified as rowdies and rowdy sheets may be opened against them:

a. Persons who habitually commit, attempt to commit or abet the commission of offences involving a breach of peace.

b. Persons bound over under Section 106, 107, 108 (c) and 110 (1) of the Code of Criminal Procedure, 1973.

c. Persons who have been convicted more than once in two consecutive years and

d. Persons who habitually tease women and girls by passing indecent remarks or otherwise; and

e. In the case of rowdies in an area under one police station but are found to be frequently visiting the are under or more other police stations their rowdy sheets can be maintained at all such police stations.

Admittedly only one case is pending against petitioners 2 and 3. Even against the first petitioner, only the second case is pending for the offence under Section 506 IPC. The offence under Section 506 IPC relates to criminal intimidation. The case pending for the offence under Section 506 IPC does not relate to offence involving a breach of peace. It is an individual act to be committed against individual persons. Therefore, It cannot be said that the offence under Section 506 IPC is an offence involving a breach of peace.

Therefore, only one case is pending against all the petitioners involving a breach of peace. Merely because one case is pending against the petitioners for offences involving a breach of peace it cannot be said that they habitually commit or attempt to commit or abet the commission of offences involving a breach of peace. If more than one case is pending against the petitioners involving a breach a peace than the respondents are entitled to open a Rowdy Sheet. As only one case is pending in respect of each petitioner, involving a breach of peace, it is not just and proper to open Rowdy Sheet against them. Therefore, the Rowdy Sheet opened against the petitioners is declared as illegal and contrary to the Police Standing Order 742.

Accordingly, the writ petition is allowed. No costs.

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V. ESWARAIAH, J

March 4, 2005

Dsk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Friday the Fourth day of March Two thousand and Five.

To

1 The Superintendent of Police Nizamabad District.

2 The Station House Officer, II Town Police Station Nizamabad District.

3 Two CCs to GP For Home, High Court Buildings, Hyderabad (OUT)

4 Two CD Copies.